

ANALYSIS

This ordinance amends Title 11 - Health and Safety of the Los Angeles County Code, relating to bathhouses and similar commercial establishments.

The ordinance redefines bathhouses and similar commercial establishments as commercial sex venues, and requires each of the establishments to obtain a public health facility permit from the Health Officer as a condition to operation. Commercial sex venues must comply with commercial sex venue regulations, issued by the Health Officer, as a prerequisite to obtaining a public health facility permit. If a commercial sex venue fails to comply with the regulations, the Health Officer may initiate sanctions, including suspension or revocation of the permit.

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AM:ec

06/25/04 (Requested)

06/28/04 (Revised)

ORDINANCE NO. _____

An ordinance amending Title 11 - Health and Safety of the Los Angeles County Code, relating to bathhouses and similar commercial establishments.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 11.04.300 is hereby amended to read as follows:

11.04.300 Findings. Acquired Immune Deficiency Syndrome (AIDS) is a fatal disease of epidemic proportions in Los Angeles County. Evidence exists that certain commercial establishments in the county ~~knowingly~~ allow, facilitate, and/or provide facilities for, their patrons to engage in high risk sexual contact which poses a significant risk for the transmission of the human immunodeficiency virus (HIV) which has been associated with AIDS, and other sexually transmitted diseases. Such ~~contact~~ high risk sexual contact poses an unacceptable public health risk which must be eliminated.

SECTION 2. Section 11.04.310 is hereby amended to read as follows:

11.04.310 Definitions. The following terms as used in this Part 3 shall have the following meanings:

A. 1. "Commercial sex venue ~~Bathhouse or similar commercial establishment~~" means any establishment ~~business~~ that charges patrons or members a fee for admission or membership and which as one of its primary purposes allows, facilitates, and/or provides facilities for its patrons or members to engage in any high risk sexual contact while on the premises. ~~for that fee offers the use of one or more of the following:~~

- a. ~~— A swimming pool;~~
- b. ~~— A spa or whirlpool;~~
- c. ~~— A communal bath;~~
- d. ~~— Movies or videos for viewing on the premises.~~

2. Excluded from the definition of commercial sex venue ~~bathhouse or similar commercial establishment~~ shall be any hotel or motel, as defined in subsection C ~~D~~ of this section.

B. 1. "High risk sexual contact" ~~Restricted activity~~ means anal or vaginal intercourse, or oral copulation, and any other behavior or activity identified by the county health officer pursuant to subsection B. 2 of this section.

2. In recognition that medical information about AIDS and how it is transmitted continues to develop, the county health officer may amend the definition of high risk sexual contact ~~restricted activity~~ when, in his or her opinion, such a change is supported by the then-available scientific information. Any such change shall be effective only after notice of such change is given to the board of supervisors and is published once a week for three weeks in a newspaper of general circulation in the county and is provided to each establishment which has been issued or applied for a permit pursuant to Section 11.04.320 herein.

C. ~~—"Private room" means any enclosed space large enough for more than one person to enter, with a door capable of being locked from the inside, unless one or more of the following applies:~~

~~1. There is an opening no less than five feet nor more than six feet above the floor through which the full interior of the enclosure is viewable from the exterior; or~~

~~2. The enclosure is not made available for use by patrons of the establishment; or~~

~~3. No more than one person at a time is allowed to enter the enclosure and there are no openings between any adjoining enclosures through which physical contact between persons in such adjoining enclosures is possible.~~

CD. "Hotel" or "motel" means a commercial establishment meeting all of the following requirements:

1. The establishment holds itself out as being primarily in the hotel or motel business;

2. The establishment is licensed by all applicable jurisdictions as a hotel or motel;

3. The establishment complies with any applicable occupancy tax ordinance;

4. The establishment complies with all applicable state, city and county statutes, ordinances and regulations controlling the operation of motels or hotels, including, but not limited to, ~~Los Angeles County Code Sections 11.20.150 et seq.~~

SECTION 3. Section 11.04.320 is hereby deleted in its entirety.

SECTION 4. Section 11.04.320 is hereby added to read as follows:

11.04.320 Public health facility permit.

A. It shall be unlawful for any person or entity to operate, conduct or carry on a commercial sex venue, unless the owner of the commercial sex venue first obtains, and continues to maintain in full force and effect, a public health facility permit. The owner of any commercial sex venue which was lawfully operating on the effective date of this section shall either cease operation or obtain a public health facility permit within six months of the effective date of this section.

B. Within 30 calendar days of the adoption of this section, the county health officer shall establish commercial sex venue regulations, which are intended to eliminate the unacceptable public health risk posed by the operation of commercial sex venues. A copy of these commercial sex venue regulations shall be made available to any member of the public at no charge, upon request. As determined necessary by the county health officer, he may, from time to time, amend the commercial sex venue regulations. A copy of any amendments shall also be made available to any member of the public at no charge, upon request.

C. Upon review and verification by the county health officer that the owner has met the requirements enumerated in the commercial sex venue regulations, he shall issue a public health facility permit to the owner.

D. Any public health facility permit issued by the county health officer to the owner of a commercial sex venue is nontransferable. The public health facility permit shall be valid for a twelve-month period and only for the approved facility.

SECTION 5. Section 11.04.330 is hereby deleted in its entirety.

SECTION 6. Section 11.04.330 is hereby added to read as follows:

11.04.330 Posting requirements.

A. The public health facility permit issued to the owner of any facility operating as a commercial sex venue must be posted and exhibited at all times in an area that is visible to the public and to patrons and members of the commercial sex venue.

B. At all times, every commercial sex venue shall have posted so as to be clearly visible to patrons and members entering the establishment a legible sign, in lettering at least one inch in size, that provides the following information:

Any public health concerns regarding this establishment should be directed to the Los Angeles County Department of Health Services Office: (the program office address and telephone number to be provided by the county health officer).

SECTION 7. Section 11.04.340 is hereby added to read as follows:

11.04.340 Permit - Reporting Requirements.

Every owner of a commercial sex venue for which a public health facility permit has been issued by the county health officer under the provisions of this Part 3 shall report to him any changes in the status of the business or activities which is made reportable by commercial sex venue regulations, within 15 calendar days of the change.

SECTION 8. Section 11.04.350 is hereby added to read as follows:

11.04.350 Permit - Suspension and Revocation.

A. Any public health facility permit issued pursuant to this Part 3 may be suspended or revoked at any time by the county health officer for failure to comply with any provision of this Part 3 or any other violation of law or standard which creates a risk to the public health or safety, including, but not limited to, any violations of the commercial sex venue regulations, the Los Angeles County Code or the California Health and Safety Code, or any combination thereof, or for interference with the county health officer's performance of his duty.

B. Whenever the county health officer finds that an owner is not in compliance with the requirements of this Part 3, or any law or standard affecting the public health or safety, including, but limited to, the commercial sex venue regulations, the Los Angeles County Code or the California Health and Safety Code, or any combination thereof, a written notice of noncompliance shall be issued to the owner. The notice of noncompliance shall include a statement of all deficiencies found, and shall specify the mandatory corrective measures, including, if appropriate, preparation by the owner of a corrective action plan, which must be completed to address all deficiencies. The county health officer shall provide a date (hereinafter "compliance date") by which all the mandatory corrective measures must be completed. On the compliance date, the county health officer will assess if the mandatory corrective measures taken by the owner are sufficient to cause the county health officer to conclude that the deficiencies that were set out in the notice of noncompliance have been corrected or otherwise sufficiently addressed to ensure that they no longer present

a risk to public health or safety. The notice of noncompliance shall inform the owner that failure to sufficiently address the deficiencies may result in the imposition of any penalty provided for in this Part 3. The notice of noncompliance shall also advise the owner of his right to an administrative review under the provisions of subsection E of this section.

C. Notwithstanding any other provision of this Part 3, if the county health officer finds that an owner is not in compliance with the requirements of this Part 3, or any law or standard affecting the public health or safety, including, but not limited to, the commercial sex venue regulations, the Los Angeles County Code or the California Health and Safety Code, or any combination thereof and this owner has demonstrated a pattern of violations such that, in the judgment of the county health officer additional time will not result in compliance, the county health officer may immediately suspend or revoke the owner's health facility permit. In such case, the county health officer shall issue a written notice to the owner that shall specify the acts or omissions found to be violations of any applicable regulations or laws, and in the case of suspension, shall state the duration of the suspension and the corrective measures, if any, which the owner must implement as a condition of the reinstatement or reissuance of the permit, at end of the suspension period. The notice shall also advise the owner of his right to an administrative review under the provisions of subsection E of this section.

D. Notwithstanding any other provision of this Part 3, if any immediate danger to the public health or safety is found or is reasonably suspected, unless the condition is corrected forthwith, the county health officer may immediately suspend any public health facility permit issued pursuant to this Part 3, and/or initiate a criminal complaint, pending a determination of an administrative review as provided herein. Immediate

danger to the public health or safety shall include any condition, based upon inspection findings or other evidence, that can cause, or is reasonably suspected of causing, infection or disease transmission, or any known or reasonably suspected hazardous condition.

Whenever a public health facility permit issued pursuant to this Part 3 is immediately suspended as a result of an immediate danger to the public health or safety, the county health officer shall issue to the owner a written notice of noncompliance. The notice of noncompliance shall include a statement of all deficiencies found, and shall specify the mandatory corrective measures, including, if appropriate, preparation by the owner of a corrective action plan, which must be completed to address all deficiencies. The county health officer shall set a compliance date by which all the mandatory corrective measures must be completed. On the compliance date, the county health officer will assess if the mandatory corrective measures taken by the owner are sufficient to cause the county health officer to conclude that the deficiencies that were set out in the notice of noncompliance have been corrected or otherwise sufficiently addressed to ensure that they no longer present a risk to the public health or safety. In this circumstance where a business is immediately closed because of an immediate danger to the public health or safety is found or reasonably suspected, the owner may request that the compliance date occur on a date earlier than that scheduled by the county health officer. If the owner requests this earlier date, the county health officer shall reschedule the compliance date to a time no later than the end of the third business day following the owner's request. The notice of noncompliance shall inform the owner that failure to sufficiently address the

deficiencies may result in the imposition of any penalty provided for in this Part 3. The notice of noncompliance shall also advise the owner of his right to an administrative review under the provisions of subsection E of this section.

E. A request for an administrative review, as specified in subsections B and D of this section, must be made by the owner in writing within 15 calendar days of the compliance date set forth in the notice of noncompliance or any extension thereof which is later granted by the county health officer. A request for an administrative review, as specified in subsection C of this section, must be made by the owner in writing within 15 calendar days of the date the notice provided for in subsection C is issued by the county health officer. Failure to request an administrative review within the prescribed time shall be deemed a waiver of the right to such review. The administrative review shall be held within 15 calendar days of the receipt of a written request for a review and shall be conducted by a designee of the county health officer who was not involved in issuing the notice of noncompliance (hereinafter "reviewer"). Upon written request of the owner, or on his own initiative, the reviewer may advance or postpone the scheduled administrative review date, if, in his opinion, good cause warrants such action. The reviewer shall issue to the owner a written notice of his decision within five working days of the completion of the administrative review. Upon completion of the administrative review, the reviewer may modify, suspend, revoke or continue all such actions previously imposed upon a public health facility permit issued pursuant to this Part 3. In the event of suspension or revocation of the public health facility permit, the notice of decision shall specify the acts or omissions found to be violations of any applicable regulations or laws and, in the case of suspension, shall state the duration of the

suspension and the corrective measures, if any, which the owner must implement as a condition of the reinstatement or reissuance of the permit, at end of the suspension period.

F. In the event a public health facility permit is suspended or revoked, the owner of the commercial sex venue shall cease to operate said facility as a commercial sex venue, unless and until the public health facility permit is reinstated or reissued.

SECTION 9. Section 11.04.360 is hereby added to read as follows:

11.04.360 Compliance with Part 3 Provisions Required.

A. The provisions of this Part 3 are in full force and effect in the county and in every municipal jurisdiction in the county adopting this Part 3.

B. Any person owning or operating any business or establishment regulated by this Part 3, must comply with the provisions of this Part 3.

C. Any person who owns or operates a commercial sex venue without a valid public health facility permit, or who, upon demand of the county health officer, refuses, or neglects to conform to a lawful order or directive issued by him pertaining to conduct regulated by this Part 3, is guilty of a misdemeanor, punishable by a fine of \$1,000.00, imprisonment in the county jail for a period not exceed six months, or both. Each such act is punishable as a separate offense, and each subsequent day that an act continues constitutes a separate act punishable as separate offense.

SECTION 10. Section 11.04.370 is hereby added to read as follows:

11.04.370 Health officer - Right to Enter and Inspect.

The county health officer may enter and inspect any commercial sex venue, or enter and inspect any location suspected of being a commercial sex venue, for purposes of enforcing this Part 3. Such inspections may be conducted as often as necessary to ensure compliance with the provisions of this Part 3.

SECTION 11. Section 11.04.380 is hereby added to read as follows:

11.04.380 Noncompliance with county health officer - Injunctive relief.

Any act or failure to act which is a violation of this Part 3 may be the subject of a civil action to enjoin the person so acting or failing to act to conform his or her conduct to the provisions of this Part 3. The filing and prosecution of such an action shall, in no way, limit the authority or ability of the county health officer to enforce the requirements of this Part 3 or impose penalties or take any other actions enumerated herein.

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